

Legislative Bulletin.....December 17, 2010

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S. 3592 - A bill to designate the facility of the United States Postal Service located at 100 Commerce Drive in Tyrone, Georgia, as the "First Lieutenant Robert Wilson Collins Post Office Building" (Sen. Chambliss, R-GA)

Order of Business: The legislation is scheduled to be considered on Friday, December 17, 2010, under a motion to suspend the rules and pass the bill.

Summary: S. 3592 would designate the post office at 100 Commerce Drive in Tyrone, Georgia, as the "First Lieutenant Robert Wilson Collins Post Office Building."

Additional Information: First Lieutenant Robert Wilson Collin was assigned to the Army, 1st Battalion, 64th Armor Regiment, 2nd Brigade Combat Team in Fort Stewart, Georgia. He was killed on April 7, 2010, in Iraq after his vehicle was struck by an improvised explosive device.

Committee Action: S. 3592 was introduced on July 15, 2010 and referred to the Senate Committee on Homeland Security and Governmental Affairs, where it was discharged by unanimous consent. The legislation passed the Senate on December 16, 2010, by unanimous consent.

Administration Position: No Statement of Administration Policy (SAP) is available.

Cost to Taxpayers: A report from CBO was unavailable at press time.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Though the bill contains no earmarks, and there's no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: Although no committee report citing constitutional authority is available, Article I, Section 8, Clause 7 of the Constitution grants Congress the authority to establish Post Offices and post roads.

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

H.Res. 1733 - Recognizing Mark Twain as one of America's most famous literary icons on the 175th anniversary of his birth and the 100th anniversary of his death (*Snyder, D-AR*)

Order of Business: The resolution is scheduled to be considered on Friday, December 17, 2010, under a motion to suspend the rules and pass the resolution.

Summary: H.Res. 1733 resolves that the House of Representatives:

- “Recognizes Mark Twain as one of America's most famous literary icons and commemorates him on the 175th anniversary of his birth and the 100th anniversary of his death.”

This resolution contains a number of findings, including:

- “On November 30, 1835, Samuel Langhorne Clemens, one of the most prolific and influential writers and orators in America, was born in Florida, Missouri;
- “Clemens, at the age of 17, moved to St. Louis, Missouri, and became a river pilot's apprentice, eventually becoming a licensed river pilot in 1858;

- “Clemens assumed his pen name, Mark Twain, based on his experience as a river pilot;
- “Mark Twain means two fathoms or 12 feet when the depth of water for a boat is being sounded, or that it is safe to navigate; and
- “Mark Twain, after saying in 1909, ‘I came in with Halley's Comet in 1835. It is coming again next year, and I expect to go out with it. It will be the greatest disappointment of my life if I don't go out with Halley's Comet. The Almighty has said, no doubt: ‘Now here are these two unaccountable freaks; they came in together, they must go out together.’, died on April 21, 1910, one day after Halley's Comet had its closest approach to the Earth.”

Committee Action: H.Res. 1733 was introduced on November 18, 2010, and was referred to the House Committee on Oversight and Government Reform, which took no public action.

Administration Position: No Statement of Administration Policy (SAP) is available.

Cost to Taxpayers: A report from CBO was unavailable at press time.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Though the bill contains no earmarks, and there’s no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: A committee report stating constitutional authority is unavailable.

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

H.R. 2142—Government Efficiency, Effectiveness, and Performance Improvement Act (*Cuellar, D-TX*)

Order of Business: The bill is scheduled to be considered on Friday, December 17, 2010, under a motion to suspend the rules and pass the bill. This legislation passed the House on June 16, 2010, by voice vote. It was then referred to the Senate Committee on Homeland Security and Governmental Affairs. On December 16, 2010, the legislation was amended and passed the Senate by unanimous. The House is set to consider the Senate amendments.

Summary: H.R. 2142 would require the Office of Management and Budget (OMB) to designate performance improvement officers at each federal agency to be responsible for conducting an assessment of each program of the agency at least once every five years. In addition, agencies would have to form performance review councils to work with OMB on the efficiency upgrades. The bill would implement program assessments to identify program goals, submit improvement plans, and designate agency improvement officers within each agency, among other goals.

Performance improvement officers would be tasked to supervise the performance management activities of the agency, including development of the agency's strategic plans, annual performance plans, and annual performance reports. The bill also allows the officer to assist the head of the agency in the development and use of performance measures in personnel performance appraisals and other agency personnel and planning processes.

The bill allows the Director of the OMB to establish a Performance Improvement Council to facilitate the exchange among agencies of information on performance management, including strategic and annual planning and reporting, to accelerate improvements in program performance. Finally, the Director of the OMB may require the development of an internet website that provides the public with information on how well each agency performs and that serves as a source of information for the public on their activities.

Additional Information: The Government Performance and Results Act of 1993 (GPRA) requires federal agencies to define their mission and evaluate their performance. CBO estimates that the federal government spends between \$50 million and \$100 million annually to comply with current GPRA requirements.

Committee Action: On April 28, 2009, the bill was referred to the House Committee on Oversight and Government Reform. The full committee held a mark-up on May 20, 2010, and the legislation, as amended, was reported by a voice vote. This legislation passed the House on June 16, 2010, by voice vote. It was then referred to the Senate Committee on Homeland Security and Governmental Affairs. On December 16, 2010, the legislation was amended on the floor, and passed the Senate by unanimous consent.

Administration Position: No Statement of Administration Policy (SAP) is available.

Cost to Taxpayers: There is no CBO score for the version that passed the Senate yesterday. CBO had scored the version that was approved by the Senate Homeland Security and Governmental Affairs Committee, but the bill was amended on the Senate floor.

CBO had estimated that additional spending among the 23 major federal agencies would vary significantly but average around \$1 million a year each to implement those new requirements. In total, CBO estimates that implementing H.R. 2142 would expand GPRA

requirements and increase spending \$75 million governmentwide over the 2011-2015 period, assuming the availability of appropriated funds.

Potential Conservative Concerns: Some conservative have expressed concern the bill authorizes \$75 million to establish agency performance officers and interagency councils, but does not contain an effective means in which to consolidate or eliminate ineffective programs at each agency. Additionally, some conservatives have expressed concern that H.R. 2142 does not contain an amendment introduced in committee mark-up by Rep. Schock (R-IL). The amendment would have established a “Federal Program Sunset FERC” to evaluate agency performance and eliminate programs that failed performance standards, were found to be duplicative, or determined to be unnecessary (modeled on Rep. Brady’s Federal Sunset Act).

There is no CBO cost estimate for the version of the bill that passed the Senate yesterday. The version approved by the Senate Governmental Affairs Committee is estimated to authorize \$75 million of new spending, subject to appropriation.

This legislation mandates the creation of several new government-wide and agency-specific management plans, however it does not increase executive accountability for failing programs.

Amendments insisted by Republicans during the House Committee markup have been removed from the version that passed the Senate. These amendments would have restored significant accountability to the bill.

This legislation would not measure the performance of every program. It would instead require agencies to prepare “strategic plans” every four years which would outline general goals and objectives for their major functions and operations. Every two years, agencies would be required to identify “priority goals.” These strategic plans and priority goals will be used by the Administration to promote its priorities rather than critically measure the performance of government programs.

H.R. 2142 would allow agencies to design their performance plans and then measure their own results using their own performance indicators. Rather than requiring agencies to focus on achieving measurable outcomes, H.R. 2142 makes the creation of outcome-oriented performance measures optional.

Does the Bill Expand the Size and Scope of the Federal Government? Yes. H.R. 2142 authorizes \$75 million, of new spending subject to appropriation.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates? No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits? [House Report 111-504](#) states that H.R. 2142 does not

include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI.

Constitutional Authority: [House Report 111-504](#) cites constitutional authority in Article I, Section 8, Clause 18 of the Constitution of the United States.

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

H.Res. 1621 - Recognizing the 100th anniversary of the historic founding of Catholic Charities USA (*Holt, D-NJ*)

Order of Business: The resolution is scheduled to be considered on Friday, December 17, 2010, under a motion to suspend the rules and pass the resolution.

Summary: H.Res. 1621 resolves that the House of Representatives:

- “Recognizes and celebrates the 100th anniversary of the historic founding of the National Conference of Catholic Charities, now called Catholic Charities USA; and
- “Honors and praises Catholic Charities USA for being a national leader in the efforts to fight poverty and to strengthen the United States in times of need and crisis.”

This resolution contains a number of findings, including:

- “Catholic Charities USA was founded in 1910 on the campus of Catholic University of America in Washington, DC, as the National Conference of Catholic Charities;
- “Under the leadership of Msgr. John O’Grady, who served as Executive Secretary from 1920 to 1961, the National Conference of Catholic Charities became a leading voice for compassionate social reforms grounded in Catholic teachings;
- “In 1986, the National Conference of Catholic Charities changed its name to Catholic Charities USA;
- “Catholic Charities’ mission is to provide service to people in need, to advocate for justice in social structures, and to call people of goodwill to do the same by working with individuals, families, and communities to help them meet their needs, address their issues, eliminate oppression, and build a just and compassionate society; and
- “Catholic Charities USA has the goal of providing strong leadership and support to assist local diocesan agencies in their efforts to reduce poverty, support families, and empower communities.”

Committee Action: H.Res. 1621 was introduced on September 15, 2010, and was referred to the House Committee on Oversight and Government Reform, which took no public action.

Administration Position: No Statement of Administration Policy (SAP) is available.

Cost to Taxpayers: A report from CBO was unavailable at press time.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Though the bill contains no earmarks, and there's no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: A committee report stating constitutional authority is unavailable.

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

H.Res. 1767 - Commending the Wisconsin Badger football team for an outstanding season and 2011 Rose Bowl bid (*Baldwin, D-WI*)

Order of Business: The resolution is scheduled to be considered on Friday, December 17, 2010, under a motion to suspend the rules and pass the resolution.

Summary: H.Res. 1767 resolves that the House of Representatives:

- “Commends the Wisconsin Badger football team for an outstanding season and 2011 Rose Bowl bid;
- “Applauds Coach Bret Bielema for his leadership not only on the football field, but also in the community; and
- “Recognizes the achievements of the players, coaches, students, alumni, and staff who were instrumental in helping the Wisconsin Badgers make it to Pasadena, California.”

This resolution contains a number of findings, including:

- “The Wisconsin Badgers completed a dominant regular season, winning the Big Ten Title, finishing 11 and 1, and earning a bid to the Rose Bowl on January 1, 2011;

- “The Badgers have achieved an outstanding overall 49 and 15 record under Coach Bielema's tenure;
- “The Wisconsin Badgers are the least penalized team in the United States, displaying remarkable discipline and leadership on the field; and
- “Wisconsin Badger fans sold out Camp Randall for the entire season and are known for their loyal and fervent support.”

Committee Action: H.Res. 1767 was introduced on December 15, 2010, and was referred to the House Committee on Education and Labor, which took no public action.

Administration Position: No Statement of Administration Policy (SAP) is available.

Cost to Taxpayers: A report from CBO was unavailable at press time.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Though the bill contains no earmarks, and there's no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: A committee report stating constitutional authority is unavailable.

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

H.R. 5510—Aiding Those Facing Foreclosure Act of 2010 ***(Kaptur, D-OH)***

Order of Business: H.R. 5510 is scheduled to be considered on Friday, December 17, 2010, under a motion to suspend the rules and pass the bill.

Summary: The legislation provides funding derived from the Hardest-Hit Housing Markets program, under the Troubled Assets Relief Program (TARP), to be used for housing counseling in the form of legal assistance to those at risk of foreclosure. Specifically, the bill would provide funding to state and local legal organizations, including nonprofit legal organizations, for use in providing this legal assistance to homeowners.

The legislation prohibits funds from being used for class action litigation. The legislation also prohibits any organization which has been convicted for a violation under federal law relating to an election for federal office from receiving funds.

Conservative Concerns: Many conservatives would argue that any funding still available under TARP should be used to reduce the deficit (as promised when the TARP program was created), not for new federal spending. TARP was never intended to be used for housing counseling programs. Money used for this purpose will never be paid back to taxpayers. In addition, there are already numerous federal housing counseling programs in existence—this legislation duplicates these efforts. Finally, as a general matter, many conservatives may believe that the federal government has no role in funding housing counseling.

The bill has been the subject of no hearings, there is no CBO score (so it is entirely unclear how much deficit spending would result from the bill), the final text has been available for less than 48 hours, and Members received only hours worth of notice that this was coming to the floor today.

Committee Action: H.R. 5510 was introduced on June 10, 2010, and referred to the House Committee on Financial Services, which took no further action.

Cost to Taxpayers: No CBO score is available. However, the legislation transfers money from the TARP fund (where unused funding is intended to pay down debt) to new federal spending. **It is entirely unclear how much the deficit would increase as a result of the new spending resulting from the bill.**

Does the Bill Expand the Size and Scope of the Federal Government? Yes, the legislation increases federal funding for housing counseling programs.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates? No report listing any such information is available.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No committee report listing earmark authority is available.

Constitutional Authority: No committee report citing constitutional authority is available, though many conservatives might argue that the bill is unconstitutional.

RSC Staff Contact: Brad Watson; brad.watson@mail.house.gov; 202-226-9719

**H.Con.Res. 335 - Honoring the exceptional achievements of
Ambassador Richard Holbrooke and recognizing the monumental
contributions he has made to United States national security,
humanitarian causes, and peaceful resolutions of international
conflict (*Lowey, D-NY*)**

Order of Business: The resolution is scheduled to be considered on Friday, December 17, 2010, under a motion to suspend the rules and pass the resolution.

Summary: H.Con.Res.335 resolves that the House of Representatives:

- “Honors the exceptional achievements of Ambassador Richard Holbrooke and recognizes the significant contributions he has made to United States national security, humanitarian causes, and peaceful resolutions of international conflict; and
- “Respectfully request that the Clerk of the House transmit an enrolled copy of this resolution to the family of Ambassador Richard Holbrooke.”

This resolution contains a number of findings, including:

- “Ambassador Richard Holbrooke devoted nearly 50 years of his life to public service, working tirelessly to defend United States interests abroad and foster peace amongst warring factions for the betterment of United States and international stability and security;
- “Ambassador Holbrooke brokered the 1995 Dayton Accords which ended over 3 years of bloody sectarian war that took the lives of more than 100,000 Bosnians;
- “Ambassador Holbrooke was one of the most talented diplomats for the United States and possessed a fierce determination and intelligence in advocating for United States security interests around the world, including in Southeast Asia and post-Cold War Europe, at the United Nations, and most recently in Afghanistan and Pakistan;
- “From Southeast Asia to post-Cold War Europe and around the globe, people have a better chance of a peaceful future because of Ambassador Holbrooke’s lifetime of service; and
- “Ambassador Holbrooke was renowned internationally for his energy, persistence, sharp intellect, and skills of persuasion.”

Committee Action: H.Con.Res.335 has yet to be introduced.

Administration Position: No Statement of Administration Policy (SAP) is available.

Cost to Taxpayers: A report from CBO was unavailable at press time.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Though the bill contains no earmarks, and there's no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: A committee report stating constitutional authority is unavailable.

RSC Staff Contact: Curtis Rhyne, Curtis.Rhyne@mail.house.gov, (202) 226-8576.

S. 3874 – Reduction of Lead in Drinking Water Act (*Sen. Boxer, D-CA*)

Order of Business: The legislation is scheduled to be considered on Friday, December 17, 2010, under a motion to suspend the rules and pass the bill. The bill passed the Senate on December 16, 2010 by unanimous consent.

Summary: S. 3874 would amend the Safe Drinking Water Act to reduce the level of permissible lead content in the composition of plumbing fixtures from 8 percent to 0.25 percent (and 0.2 percent in some circumstances).

The bill provides exemptions for the following:

- Pipes, pipe fittings, plumbing fittings, or fixtures, including backflow preventers, that are used exclusively for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses where the water is not anticipated to be used for human consumption.
- Toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, service saddles, or water distribution main gate valves that are 2 inches in diameter or larger.

For purposes of this bill, “lead free” means:

- Not containing more than 0.2 percent lead when used with respect to solder and flux; and
- Not more than a weighted average of 0.25 percent lead when used with respect to the wetted surfaces of pipes, pipe fittings, plumbing fittings, and fixtures.

The provisions of the bill shall apply 36 months after the date of enactment.

Possible Conservative Concerns: Some conservatives have expressed concern this bill dramatically reduces the permissible lead content in the composition of plumbing fixtures from 8 percent to 0.25 percent. In order to comply with a mandate driven by California,

this new rule could lead to the loss of manufacturing jobs. Finally, some conservatives have expressed concern this mandate comes at a cost of at least \$140 million and additional costs incurred by manufacturers could be passed on to consumers as higher prices.

Committee Action: S. 3874 was introduced on September 29, 2010 and referred to the Senate Environment and Public Works Committee. The bill passed the Senate on December 16, 2010 and was referred to the House Committee on Energy and Commerce which took no further public action.

Cost to Taxpayers: CBO estimates that enacting this legislation would have no significant budgetary effect. With regard to new intergovernmental and private sector mandates (see below), CBO goes further to state, “However, because of the large number of fixtures shipped in the United States annually and uncertainty about the extent to which manufacturers would already comply with the requirement, CBO cannot estimate the cost of the mandate. Consequently, CBO cannot determine whether the aggregate cost of the mandates would exceed the annual threshold established in UMRA for the private sector (\$141 million in 2010, adjusted annually for inflation).”

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: Yes. According to CBO, “By modifying the definition of ‘lead free’ under the Safe Drinking Water Act, the bill would impose intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The bill would prohibit public and private entities that provide water for human consumption from installing plumbing fixtures that do not meet the new definition. CBO estimates that the costs to comply with that requirement would not be significant. Accordingly, CBO estimates that the direct costs to state, local, and tribal entities would fall well below the annual threshold established in UMRA for intergovernmental mandates (\$70 million in 2010, adjusted annually for inflation). Public entities could face higher prices for plumbing fixtures, but... such costs would not be the direct result of this intergovernmental mandate.”

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Although the bill contains no earmarks, and there is no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

RSC Staff Contact: Natalie Farr, natalie.farr@mail.house.gov, 202-226-0718.

H.R. 6533 - To implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service (*Doyle, D-PA*)

Order of Business: The legislation is scheduled to be considered on Friday, December 17, 2010, under a motion to suspend the rules and pass the bill. The House passed a similar version of this bill, H.R. 1147, on December 16, 2009, by voice vote.

Summary: H.R. 6533 returns authority to the FCC for licensing decisions related to low-power radio stations. It also protects full power stations from interference and protects reading services for the blind.

Specifically, the bill directs the Federal Communications Commission (FCC) to repeal the three-clicks-away restriction requirements on the operation of low-power FM stations. In 2000, Congress passed legislation to limit new community radio stations (operating with a capacity that generate signals less than 100 watts) from being located within three clicks away on both sides of the FM dial from commercial broadcasters. The concern was that if the signals were too close, the low power station could potentially cause interference between FM radio stations.

The legislation allows the FCC to retain its rules that provide third-adjacent channel protection for full-power non-commercial FM stations that broadcast radio reading services via a subcarrier frequency from potential low-power FM station interference. Additionally, the bill requires the FCC to ensure licenses are available to both FM translator stations and low-power FM stations and decisions are made based on the needs of the local community.

The bill allows any citizen to complain to the FCC if a low power (LPFM) radio station is causing interference to any full-power station. If that's the case, the FCC must shut down the station in one day. Furthermore, if a full-power station relocates and knocks a low power station off the air, the FCC may find spectrum for displaced LPFM stations.

Additional Background: In 2000, the FCC authorized a new community radio service called low-power FM (LPFM) to "enhance locally focused community-oriented radio broadcasting." Congress delayed the full implementation of LPFM until a study could be reviewed, however, the FCC granted broadcasting licenses to over 800 stations despite the congressional action. A 2004 FCC study concluded that "Congress should readdress this issue and modify the statute to eliminate the third-adjacent channel distance separation requirement for LPFM stations." The FCC still has not acted on this recommendation.

Committee Action: H.R. 6533 was introduced on December 16, 2010 and referred to the House Committee on Energy and Commerce which took no further public action.

Cost to Taxpayers: No CBO score is available for H.R. 6533. However, the CBO score for a similar bill (H.R. 1447), which passed in December 2009, states that the

administrative costs of processing additional license applications would be negligible and that there would be no change in the FCC's offsetting collections because noncommercial entities do not pay fees for such licenses.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: According to CBO's report on a similar bill that passed in December 2009 (H.R. 1147), the bill could impose a private-sector mandate. According to the FCC, 15 low-power FM radio stations are currently licensed to broadcast on frequencies within two channels of another channel. If any of those existing licenses were to be invalidated, the bill would impose a private-sector mandate.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Although the bill contains no earmarks, and there is no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

RSC Staff Contact: Natalie Farr, natalie.farr@mail.house.gov, 202-226-0718.

Senate Amendment to H.R. 5809—Diesel Emissions Reduction Act (DERA) of 2012 (*Senator Carper, D-DL*)

Order of Business: The bill is scheduled to be considered on Friday, December 17, 2010, under a motion to suspend the rules and pass the bill.

Summary: Originally created by Congress in 2005, the Diesel Emissions Reduction Act (DERA) is a program that established a federal and state grant and loan program to reduce diesel emissions with the goal of reducing health risks and assisting states meet air quality standards of the Clean Air Act. The program has two components. Under the federal program, 70 percent of the total funds are designated to provide competitive grants and revolving loans to help install verified and certified technologies to reduce diesel emissions. Under the state Clean Diesel Grant Program, 30% of the funds are designated to implement grant and loan programs for clean diesel projects within the state.

Specifically, the Senate Amendment to H.R. 5809 reauthorizes the DERA program through 2016 at an authorization level of \$500 million over five years. H.R. 5809 now allows the Administrator of the Environmental Protection Agency (E.P.A.) to provide rebates to eligible entities, in addition to grants and low-cost revolving loans. The bill requires the Administrator to develop a simplified application process for all applicants

under to expedite the provision of funds. Additionally, the bill permits the Administrator to enter into contracts with a for-profit or nonprofit entity if it has the capacity to:

- “Sell diesel vehicles or equipment to, or to arrange financing for, individuals or entities that own a diesel vehicle or fleet; or
- “Upgrade diesel vehicles or equipment with verified or Environmental Protection Agency-certified engines or technologies, or to arrange financing for such upgrades.”

Finally, the bill requires the EPA to publish awards of grants, rebates, or loans on their website and authorizes \$100 million each year from FY 2012 through FY 2016.

Additional Background: Diesel engines are more fuel efficient and have a longer life span in relation to traditional gasoline engines. However, some organizations have expressed concern over the fact they produce greater air emissions than those of gasoline counterparts. The E.P.A. [believes](#) diesel emissions cause serious health problems and estimate there are 11 million diesel engines do not have pollution control technology. In 2005, the Senate amended the 2005 Energy Policy Act to create the DERA program at a cost of \$1 billion over five years. The Senate Amendment reauthorizes the DERA program for an additional five years through fiscal year 2016 at a cost of \$500 million.

Possible Conservative Concerns: Some conservative may be concerned the bill authorizes an additional half a billion dollars of spending for a program (now including for-profit entities to participate) that might not have a large impact on improving total air quality. The “stimulus” already gave the DERA program an additional \$300 million. Additionally, the E.P.A. recently mandated new federal standards for diesel engines in 2007 to make diesel engines 90% cleaner than standards that existed 10 years prior. Finally, some conservatives have expressed concern of the possibility DERA may be duplicative to other programs at the D.O.T. or E.P.A. While the bill contains an amendment directing the GAO to review all federal mobile source programs designed to address diesel emissions, some conservatives may believe it would be better to review the audit before reauthorizing DERA.

However, some conservatives may believe the program does have some legitimacy as it helps states comply with clean air laws, mandated by the federal government.

Committee Action: None. On December 15, 2010, the Senate amended H.R. 5809 and passed the Senate Amendment to H.R. 5809 by Unanimous Consent.

Administration Position: A Statement of Administration Policy (SAP) is unavailable.

Cost to Taxpayers: A CBO score for the Senate Amendment to H.R.5809 is unavailable at press time. However, the bill authorizes a total of \$500 million over the course of five years.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes. The legislation authorizes \$500 million of new spending, subject to appropriation.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits? A Committee Report citing compliance with rules regarding earmarks, limited tax benefits, or limited tariff benefits is not available. However, such a report is technically not required because the bill is being considered under a suspension of the rules.

Constitutional Authority: A committee report citing constitutional authority is unavailable for the Senate Amendment to H.R. 5809.

RSC Staff Contact: Bruce F. Miller, bruce.miller@mail.house.gov, (202)-226-9720
